



**Proceedings under Section 7 IBC**

**IN THE MATTER OF:**

State Bank of India

.....Applicant

V/s

Neesa Agritech and Foods Limited

.....Respondent

**Order delivered on 17/05/2023**

**Coram:**

Mr. Deep Chandra Joshi, Hon'ble Member(J)

Mr. Ajai Das Mehrotra, Hon'ble Member(T)

**ORDER**

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.

SD /-

**AJAI DAS MEHROTRA**  
**MEMBER (TECHNICAL)**

SD/-

**DEEP CHANDRA JOSHI**  
**MEMBER (JUDICIAL)**



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD**

**COURT - II**

**CP (IB) 188/NCLT/AHM/2022**

(Under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016

**In the Matter of:**

**STATE BANK OF INDIA  
APPLICANT/**

**FINANCIAL  
CREDITOR**

**Versus**

**NEESA AGRITECH AND FOODS LIMITED  
RESPONDENT/**

**CORPORATE DEBTOR**

**Order Pronounced on: 17/05/2023**

**CORAM:**

**DEEP CHANDRA JOSHI  
HON'BLE MEMBER (JUDICIAL)  
AJAI DAS MEHROTRA  
HON'BLE MEMBER (TECHNICAL)**



## **MEMO OF PARTIES**

### **State Bank of India**

Branch office:

SAM (Stressed Asset Management)

Paramsiddhi Complex, 2<sup>nd</sup> Floor

Ellis Bridge

Ahmedabad 380 006

Registered office:

State Bank of India

Madam Cama Road,

Nariman Point,

Mumbai, Maharastra-40021

... **Applicant/Financial**

**Creditor**

**Versus**

### **Neesa Agritech and foods Limited**

registered office:

Block No. 279p,

Panchrantna Industrial Estate Changodar,

Ahmedabad –gujarat-382213

... **Respondent/Corporate**

**Debtor**

### **Appearance:**

For the Applicant : MR. Vishal Raval, Advocate

For the Respondent : None

## **ORDER**

1. The Present Application is filed on 06.07.2022 under section 7 of Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC, 2016') read with Rule 4 of the Insolvency and Bankruptcy



(Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') by Mr. Sunil D. Rachchh, Assistant General Manager on behalf of **State Bank of India** (for brevity 'Applicant'), duly authorised vide authority letter dated 15.06.2022, with a prayer to initiate the Corporate Insolvency process against **Neesa Agritech and Foods Limited** (for brevity 'Corporate Debtor').

2. The applicant is a body corporate constituted under the State Bank of India Act, 1955 incorporated on 01.07.1955 having identification No. TAN – MUMB14834B and PAN – AAACS8577K, having its corporate office at Madame Cama Road, Nariman Point, Mumbai 400 021 and SAM branch office at Param Siddhi Complex, Opp. V.S. Hospital, Ellisbridge, Ashram Road, Ahmedabad 380 006. The applicant is in the Banking business providing various types of financial facilities including business loans, personal loans, consumer loans, loan against property, home equity loans, term loans etc.
3. The corporate debtor is a limited company, incorporated under the provisions of The Companies Act, 1956 on 29.11.1994, duly registered with Registrar of Companies, Ahmedabad with CIN:



U01110GJ1994PLC023697 and having registered office at 279p, Panchratna Industrial Estate, Changodar, Ahmedabad 382 213, Gujarat State. The Authorized share capital of the Respondent is Rs. 7,50,00,000/- and paid up share capital of the company is Rs. 7,13,32,170/-.

4. It is submitted that the applicant had granted financial assistance to the corporate debtor as per the details given below:

Facility	Sanctioned amount	Principal outstanding (Rs.)
Cash Credit	22.50 crores	14,13,99,589.97
Standby line of credit	3.00 crores	0.00
Term loan –I	1.00 crore	34,01,14,201.00
Term Loan – II	1.30 crores	
Term Loan – III		
Term Loan – IV	0.28 crores	
Term Loan – V	0.17 crores	
Term Loan – VI	0.32 crores	
Term Loan-VII	27.30 crores	
Total fund based	55.87 crores	48,15,13,790.97
Non Fund Based		
Bank guarantee (Financial)	1.00 crore	0.00
Total Exposure	56.87 crores	48,15,13,790.97

5. The applicant has further submitted that due to non-payment of the debt, the corporate debtor was classified as Non-Performing Asset on 31.05.2012 in the books of accounts of the applicant.



6. Thereafter, the applicant issued a legal notice dated 16.10.2014 calling upon the corporate debtor to pay of Rs. 61,29,06,186.00 as on 16.10.2014, copy of which is filed at pages 222 to 226 of the application.
7. In support of its claim, the applicant has annexed to the application copies of the following documents:

Sr. No.	Particulars
01	Affidavit in support of the application
02	Letter of authority
03	Written communication from the proposed IRP
04	Working computation of the amount/ledger of the applicant
05	Deed of further charge (without possession) for recording extension of mortgage by deposit of deeds coving enhanced limits executed on 08.12.2011 which was registered at Sr. No. 335
06	Agreement of hypothecation of goods and assets dated 11.11.2011
07	Certificates of Registration of charge issued by RoC
08	Letter of sanction of credit facilities dated 29.03.2011 sanctioning credit facilities aggregating to Rs. 56.87 crores
09	Supplemental agreement of loan for increase in the overall limit dated 11.11.2011
10	Statement of accounts as on 13.06.2022 along with the certificate as per the Banker's Book of Evidence Act, 1881
11	All the Board Resolutions passed for availing the loan, execution of documents and creation of mortgage, in the meeting held on 30.03.2011 & 09.05.2011
12	Deed of guarantee executed by Mr. Sanjay Gupta, Ms. Neelu Gupta, Neesa Agritech P. Ltd. and Technodot Engineers Pvt. Ltd. in favour of the financial creditor dated 11.11.2011



13	Four balance confirmation letters dated 31.03.2014 signed by the corporate debtor acknowledging the outstanding dues.
14	Revival letter dated 11.11.2011 executed by corporate debtor
15	Letter of approval by DGM, CDR to applicant dated 01.02.2013
16	Letter of arrangement dated 08.03.2013 for sanction/renewal of credit facilities and approval for implementation of CDR package
17	Master restructuring agreement dated 23.03.2013
18	Supplemental deed to MRA dated 30.09.2013
19	letter dated 07.06.2014 wherein the applicant withdrew from CDR mechanism
20	Legal notice dated 16.10.2014 issued through advocate of the applicant to corporate debtor, guarantor & mortgagor recalling the entire outstanding dues
21	Memo of original application 473/2014 filed by the applicant before DRT-I, Ahmedabad along with latest order and summons issued
22	Memorandum of application CP (IB) No. 61 of 2018 by the corporate debtor's promoters before NCLT, Ahmedabad bench under Section 10 of the IB Code.
23	Final order dated 17.09.2020 in CP (IB) No. 61 of 2018
24	Company master data of corporate debtor
25	OTS letter dated 26.08.2019 issued by the applicant along with a copy of the response dated 18.10.2019 from the director and promoter of the corporate debtor
26	Proof of advance service

8. No reply is filed by the corporate debtor.

9. The applicant filed written submissions inter alia stating that:

- An application is preferred under Section 7 of the IB Code for initiating CIRP against the respondent who is corporate guarantor of the original borrower Neesa Infrastructure Limited. The liability of the guarantor is co-extensive to borrower. The



Application u/s 7 of Insolvency & Bankruptcy Code, 2016, is filed against principal borrower and is pending for admission.

- Service affidavit dated 04.08.2022 is filed. Corporate debtor was served notice of hearing in person and by post which was returned with remark “Addressee left without instructions”. Subsequently, upon direction of the court, newspaper publication was also done.
- Date of default is 17.11.2019, the date on which the corporate debtor did not comply with the one-time settlement proposal sent by the applicant. The application is filed on 6<sup>th</sup> July, 2022 which is within limitation. Account of the corporate debtor was declared as NPA as per guidelines of RBI on 01.03.2012. Master Restructuring Agreement was executed on 23.03.2013 between the principal borrower i.e. Neesa Infrastructure Limited and the present applicant along with other lenders. Acknowledgement of Indebtness was confirmed vide para 2.1 of the Master Restructuring Agreement. Thereafter, the corporate debtor has given balance confirmation vide letter dated 31.03.2014 and 31.03.2017. Letter dated 26.08.2019 was issued by the applicant for One-time Settlement for an amount of Rs. 33,28,27,464/- against the book outstanding (excluding notional interest from the date of NPA) as on 31.03.2019 and receipt of said letter was



acknowledged by the corporate debtor vide letter dated 18.10.2019.

- The applicant is a financial creditor as per definition provided under Section 5(7) of the IB Code and debt owed by the corporate debtor is prima facie a financial debt as per the definition provided under Section 5(8)(a) of the IB Code i.e. money borrowed against the payment of interest. The applicant herein had sanctioned various credit facilities to Neesa Infrastructure Ltd. (original borrower) on various dates. Lastly Master Restructuring Agreement was executed between Neesa Infrastructure Ltd. and the applicant and other lenders on 23.03.2013.
- The corporate debtor had offered corporate guarantee and executed deed of guarantee dated 11.11.2011 in favour of the applicant for the aforesaid facilities availed by the original borrower.
- The applicant served legal notice upon the original borrower, guarantor and mortgagors on 16.10.2014 recalling the entire loan/outstanding dues.
- The facility-wise amount outstanding as on 15.06.2022 are as under:

(Rupees in crores)



Account No.	Facility	Outstanding as on 31.10.2013	Interest from 01.11.2013 to 15.06.2022	Penal interest from 01.11.2013 to 15.06.2022	Credits after 31.10.2013	Total dues outstanding as on 15.06.2022
30020425937	CC	18.22	35.70	3.12	4.08	52.96
32907385449	TL	24.29	51.48	4.48	0.30	79.95
32907301376	WCTL	7.24	14.86	1.33	0.08	23.35
32907387832	FITL	2.89	6.13	0.53	0.03	9.52
	TOTAL	52.64	108.17	9.46	4.49	165.78

- The officer who has signed the application is duly authorised to file present application by virtue of Regulation 76 (1) of the State Bank of India General Regulation 1955 framed under Section 50 of State Bank of India Act 1955.
10. In compliance of order dated 13.07.2022 the applicant has filed affidavit of service on 05.08.2022 stating that notice of hearing along with order dated 13.07.2022 has been served on the corporate debtor vide email dated 18.07.2022 and has also been served by speed post which has been returned unserved with the postal remarks “Addressee Left without instructions”. A copy of original speed post receipt along with tracking report is annexed to the affidavit. It is also stated that the notice of hearing was served on the corporate debtor via mode of Dasti Service on behalf of the applicant by Mr. Vishal Chavda and the notice was



received by the security guard available at the premises of the corporate debtor.

11. In compliance of order dated 25.11.2022 the applicant filed additional affidavit stating that the application is within limitation as the corporate debtor has executed balance confirmation in the year 2014 & 2017. Subsequently, the corporate debtor acknowledged the debt vide its reply dated 18.10.2019 against the OTS proposal issued by the applicant vide letter dated 26.08.2019. Therefore, the present application filed on 06.07.2022 is within limitation. The applicant has also stated that necessary form – C is submitted to NeSL to obtain proof of default.
  
12. As per Form 1, part IV, the corporate debtor is in default of total Rs. 56.87 crores, including interest and date of default is 01.03.2012 which is extended by the acknowledgements made on 31.03.2014, 31.03.2017 and 18.10.2019. Therefore, the present application filed on 06.07.2022 is within limitation.



13. The registered office of the corporate debtor is situated in Ahmedabad, Gujarat State and, therefore, this Tribunal has jurisdiction to entertain and try this application.
  
14. Heard the submissions and perused the documents on record. The present application was notified for the first time on 13.07.2022. Despite giving several opportunities, none appeared on behalf of the corporate debtor. Therefore, the corporate debtor was declared to be proceeded ex-parte vide order dated 29.09.2022. On perusal of the record it is seen that all the sanction letters were issued as per the standard format of the bank and secured by mortgage of properties. Interest is charged as per the stipulations made in the sanction letter. All the documents are adequately stamped.
  
15. It has been held by Hon'ble Supreme Court in the case of *State Bank of India vs. Mahendra Kumar Jajodia*, (2022) ibclaw.in 32 SC, *Laxmi Pat Surana v. Union Bank of India and Anr.*, [2020] ibclaw.in 270 NCLAT and in the case of *K Paramasivam vs Karur Vysya Bank Ltd.*, (2022) ibclaw.in 108 SC.
  
16. In light of the above discussions, it is evident that the debt is due and payable and default has occurred. The present application



is complete in terms of Section 7 (5) of the Code. The applicant is entitled to claim its dues, establishing the default in payment of the financial debt beyond doubt. As a consequence to above discussion the present application is admitted and CIRP is ordered to be initiated against corporate debtor.

17. The applicant has proposed the name of Mr. Premraj Ramratan Laddha as Insolvency Resolution Professional, who is hereby appointed as IRP of corporate debtor having registration number IBBI/IPA-001/IP-P00060/2017-18/10138 having office at 304, Abhijit-3, Above Pantaloon, Mithakhali – Law Garden Road, Ellisbridge, Ahmedabad 380 006, subject to the condition that no disciplinary proceedings are pending against him. Specific consent of the IRP in Form 2 along with disclosures as required under IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 is filed, which is on record.
  
18. We direct the Financial Creditor to deposit a sum of Rs. 2.00 lacs (Rupees two lacs only) with the Interim Resolution Professional, namely Mr. Premraj Ramratan Laddha to meet the expenses for performing functions assigned to him in accordance with regulation 6 of Insolvency and Bankruptcy Board of India



(Insolvency Resolution Process for Corporate Person) Regulations, 2016. The needful shall be done within one week from the date of receipt of this order by the Financial Creditor. The amount however be subject to adjustment by the Committee of Creditors, as accounted for by Interim Resolution Professional, and shall be paid back to the Financial Creditor.

19. As a consequence of the application being admitted in terms of Section 7(5) of IBC, 2016, moratorium as envisaged under the provisions of Section 14 (1) shall follow in relation to the Corporate debtor, prohibiting actions as per clauses (a) to (d) of Section 14 (1) of the Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(4) of the Code shall remain in force.
  
20. A copy of the order shall be communicated to the applicant, IRP and the corporate debtor. A copy of order along with complete copy of application be served to IRP by the applicant within 7 days of order. In addition, a copy of the order shall also be forwarded to IBBI for its records and taking steps for updating



the Master Data of the corporate debtor in MCA portal and shall forward the compliance report to the Registrar, NCLT.

**SD/-**

**SD/-**

**AJAI DAS MEHROTRA  
MEMBER (TECHNICAL)**

**DEEP CHANDRA JOSHI  
MEMBER (JUDICIAL)**

*Nair/Abhishek LRA*